HOURS OF LABOR

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The movement in the United States in regard to hours of labor in recent years has been very pronounced. The length of the working day has long been a subject for both legislation and collective bargaining as well as individual agreement. It appeared prominently in the agitation during the middle of the last century when ten hours became well established generally as a maximum and eight hours an ideal; a hope that has been an inspiration for agitation ever since.

In 1867, in response to the political movement of labor, the New York state legislature officially declared against a "sun to sun" day and enacted that "eight hours of labor, between the rising and setting of the sun, shall be deemed and held to be a legal day's work in all cases of labor and service by the day, where there is no contract or agreement to the contrary." Experience soon showed that this statute was no more than the expression of a wish for an eight-hour day, as it expressly did not prevent laborers and employers from forming an agreement for overtime. Other states followed the lead of New York with the same kind of statute.

Growing out of years of practical adjustment to which not only laborers and employers but legislatures and courts have been parties, the "require and permit" clause has been more generally introduced wherever statutory enactments have been at all effective. To prevent the exercise of the right to contract for terms other than those established by statute, employers are enjoined from either requiring or permitting employes to work beyond the specified number of hours.

The first generally effective regulation was that of child labor. This group of statutes is too well understood to need extensive analysis. All the states of the union make some provision for child protection, though it cannot be said that it is effective in all cases. The recent federal law goes far in establishing a standard; an ideal for all states and an effective regulation so far as products from

manufacturing establishments generally enter into interstate commerce. Products of mines and quarries are not to be admitted to interstate commerce if within thirty days prior to the removal of the product children under sixteen have been permitted to work. Products of mills, canneries, work shops, factories or manufacturing establishments may not be so admitted in cases where children under fourteen have been permitted to work or children between fourteen and sixteen more than eight hours a day or more than six days a week or after seven o'clock p.m. or before six o'clock a.m. of any day. This leaves many industries uncontrolled and much work yet to be done in the several states.

Legislation to regulate the hours of labor for adult women began early but did not proceed rapidly until comparatively recently. Massachusetts began in 1874. This class of regulatory legislation has now become a generally accepted policy, no fewer than forty-one states having enacted statutes expressly limiting hours of labor for adult women. This class of statutes covers some variety of industries and makes by no means a uniform length day or week. A classification that would indicate all the provisions of these laws must be omitted here. In general it appears that four states and the District of Columbia have an eight-hour day;[1] ten have a nine-hour day;[2] twenty have a ten-hour day;[3] two have an eleven-hour day, but less than a sixty-six-hour week;[4] and five have laws that are somewhat too complex for this simple classification.[5] This leaves seven states with no legislation.[6]

Efforts are at present being made through regional or sectional conferences, led by the Consumers' League and the National Women's Trade Union League of America, to secure a greater degree of uniformity in this class of legislation.

General attention has also been turned to the dangerous trades. Here the complexity of actual legislation is somewhat

[1] California, Colorado, Washington and Arizona.

[2] Arkansas, Maine, Missouri, Nebraska, New York, Texas, Utah, Idaho, Montana and Oklahoma.

[3] Connecticut, Delaware, Kansas, Massachusetts, Michigan, Ohio, Pennsylvania, Rhode Island, Wisconsin, Wyoming, Georgia, Kentucky, Louisiana, Maryland, Mississippi, New Jersey, Illinois, North Dakota, South Dakota and Virginia.

[4] North Carolina and Vermont.

[5] Oregon, Minnesota, New Hampshire, Tennessee and South Carolina.

[6] Alabama, Florida, Iowa, Indiana, Nevada, New Mexico and West Virginia.

bewildering. To the more obviously dangerous trades, as mining, smelting and railroading have been added others where the danger is not so apparent. This makes a classification on the basis of dangerous and non-dangerous very difficult in practice. There is, however, a line of development that has been followed in the main and which may be stated as follows: industries dangerous to life and limb; industries more obviously dangerous to health; industries which experts pronounce to be dangerous though not commonly understood to be so; employments related to public utilities and so clothed with a peculiar public interest; industries that from their very nature are continuous, the twenty-four-hour seven-day industries; certain trades where organization is so thorough as to enable the unions to secure legislation; and, finally, industries more generally, in connection with which scientific knowledge of fatigue is related to the issues of social welfare. Space does not permit these developments to be traced at length. The present status only may be described.

The New York statute, as quoted above, has been adopted practically in its original form by several states among which are Pennsylvania, Illinois and Indiana. Still other states seek to define the working day in this indefinite way.[7] Seven of these stipulate ten hours instead of eight. As has been said, this legislation has had no practical effect in establishing the length of the working day. Yet its potential influence should not be overlooked. As the movement advances it will be easier to recognize these statutes and secure their amendment by attaching the "require or permit" clause than it would be to enact new ones.

The more effective legislation has been enacted in connection with dangerous trades. For work in mines thirteen states have established the eight-hour day.[8] One other state (Maryland) has a ten-hour limit. Of these same states, eight extend the restriction to smelters as well.

For railroads the legislation is much more complicated. The continuous service required, the division of the work into train operatives, station men, dispatchers, signal men and other branches

[7] California, Connecticut, Florida, Maine, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, Ohio, Rhode Island and Wisconsin.

[8] Arizona, California, Colorado, Idaho, Missouri, Montana, Nevada, Oklahoma, Oregon, Pennsylvania, Utah, Washington and Wyoming.

make the regulation of hours more difficult. For train men there is no definite length of day. The Adamson law is but an experiment and even that appears to establish a unit for the adjustment of wages rather than a definite working day. Practically all legislation governing hours of labor for train men, therefore, establishes a maximum number of hours during which a train operative may be permitted to work without rest and further establishes the number of hours of rest that must intervene before work is resumed. The number of hours of labor allowed is usually sixteen. In Georgia and Florida, the number is set at thirteen; in Michigan, twenty-four, in Oregon, fourteen. In some cases eight hours and in others ten hours of rest are required after such a period of work. The number of states with this legislation is twenty-five. Michigan and New York establish a ten-hour limit within twelve consecutive hours.

For telegraph and telephone operatives, dispatchers and signal men, the limit is eight hours in eight states,[9] and nine hours in four states.[10] Exceptions allowing longer hours are sometimes made where stations are open only by day.

On street railways the regulation is not so general. The Massachusetts law allows only nine hours of work to be performed within eleven consecutive hours for men operating street cars. Ten hours within twelve is permitted in five states,[11] and twelve hours in five others.[12]

Much more general is the establishment of the length of day in public works and in contract work done for the public. Eight hours is the legal limit in public employment in twenty-four states, three territories and under the jurisdiction of the United States. In nine of the states the limitation is embodied in the state constitution,[13] while in the remaining fifteen it is statutory.[14] With

[9] Arkansas, Connecticut, Maryland, Nevada, New York, Texas, West Virginia, Wisconsin.

[10] Missouri, Nebraska, North Carolina and Oregon.

[11] Louisiana, Michigan, New York, Rhode Island and Washington.

[12] California, Maryland, New Jersey, Pennsylvania and South Carolina.

[13] Arizona, California, Idaho, Montana, New Mexico, Ohio, Oklahoma, Utah and Wyoming.

[14] Colorado, Indiana, Kansas, Kentucky, Massachusetts, Minnesota, Nevada, New Jersey, New York, Oregon, Pennsylvania, Texas, Washington, West Virginia and Wisconsin.

narrower limits the restrictions obtain in three more states.[15] The situation is the same for contract work done for the public, the only exception being that fewer states have embodied the provision in their state constitutions.[16]

The list of restrictions in other industries is not altogether brief though no general policy appears to prevail among the several states. For drug clerks California, as a "measure of public health," has specified ten hours a day or sixty hours a week of six consecutive calendar days. New York under the "require or permit" form of statute settles seventy hours a week with an overtime margin in any week for the purpose of a shorter following week, the aggregate hours in any two weeks to be not more than 132, with one full day off in each two weeks.

In bakeries, New Jersey establishes ten hours a day with privilege of longer time for the purpose of a shorter day at the end of the week, the total for the week being limited to sixty hours. Arizona puts an eight-hour limit on electric light and power plants. Nevada limits work in plaster and cement works to eight hours and Arizona the same for cement works. Grocery clerks in New York City have a seventy-hour week and an eleven-hour day except on Saturday. Work in coke ovens and blast furnaces has an eight-hour legal limit in Arizona and Colorado. Missouri establishes eight hours in plate glass works. Rolling and stamp mills are restricted to eight hours in Arizona, Colorado, Idaho and Wyoming. New York and New Jersey regulate time in air pressure tunnel work according to the density of the pressure; for example, when air pressure is between twenty-two and thirty pounds to the square inch, six hours is a day's work to be divided into two three-hour periods with one hour between. Montana regulates irrigation work to eight hours, and telephone operatives to nine. Saw- and planing-mills have a ten-hour day in Arkansas. In cotton and woolen mills Georgia and Maryland have established a ten-hour limit, subject to some complicated details. Mississippi has a general ten-hour day for manufacturing establishments. It cannot be understood that all such regulations are actually effective. To what extent they are positively enforced cannot be so easily stated.

[15] In Connecticut it is restricted to mechanics in state institutions; in Maryland, to the city of Baltimore; and in Missouri, to cities of the second class.

[16] Arizona, Montana, New Mexico, Oklahoma, Ohio and Utah.

By far the most interesting regulation of hours is the Oregon statute, now before the Supreme Court of the United States on the issue of its constitutionality. This law provides that no person shall be employed in any mill, factory or manufacturing establishment for more than ten hours in any one day, except watchmen and employes engaged in making necessary repairs or in case of emergency when life or property is in imminent danger. A three-hour overtime limit is permitted, in which case overtime pay must be at the rate of time-and-one-half. In order to place this statute on a firmer basis than such laws have had in the past, the first section declares the specific purpose of the law:

> It is the public policy of the state of Oregon that no person shall be hired nor permitted to work for wages under any conditions or terms for longer hours or days of service than is consistent with his health and physical well-being and ability to promote the general welfare by his increasing usefulness as a healthy and intelligent citizen. It is hereby declared that the working of any person more than ten hours in one day in any mill, factory or manufacturing establishment is injurious to the physical health and well-being of such person and tends to prevent him from acquiring that degree of intelligence that is necessary to make him a useful and desirable citizen of the state.

To make a complete statement of hours of labor in the private industries of the country is quite impossible. The variation is certainly wide. The report of the United States Bureau of Labor Statistics on *Union Scale of Wages and Hours of Labor* (May, 1916, No. 194) gives much information that is doubtless typical. It covers trades and occupations of eleven different groups with information from forty-seven important industrial cities in all parts of the country and includes data from 676,571 union workmen. Reducing the facts to index numbers and stating them comparatively, it appears that between 1907 and 1915 there was a decrease of 3 per cent in the full-time hours per week. As the latest date taken was May first, 1915, the change does not show the effects of the development of the last eighteen months. The decrease in the time since 1907 has been very gradual, remaining at 100 (index number) for the first two years, 99 for the next two years, 98 for the next three and 97 for the last two.[17]

There can be no doubt that marked progress in the direction of a shorter day has been made within the past year and a half.

[17] United States Bureau of Labor Statistics, *Bulletin No. 194*, p. 21.

A recent inquiry made by Miss Pickering estimates that over 100,000 laborers have been put on an eight-hour day within the past two years.[18]

It may fairly be assumed that the movement will continue unchecked for at least as long as the war continues. What will then happen can be but conjecture. Yet it cannot be supposed that the pronounced movement for a shorter work day is due solely to the war. It was clearly in evidence before the war began. It may receive a temporary check if the post-bellum conditions prove to be as disheartening as many would lead us to expect. It can be but temporary, however. The indications point quite clearly to that conclusion. "Sooner or later the eight-hour day will be universal," so many employers are quoted as saying. Many of these have demonstrated by actual trial that the eight-hour day increases output. Mr. Henry Ford is not alone in the conclusions that have been so widely quoted from him.

Agitation will continue, accompanied by strikes if necessary as well as by more legislation. At a recent meeting of the Building Trades Department of the American Federation of Labor resolutions were introduced suggesting a six-hour day for all unions of building mechanics as a solution of the unemployment problem. The Metal Trades Department called for an eight-hour day in the ship-building industry. The Labor Center Association of New York is organizing a campaign for a universal eight-hour day, supplying liberal quantities of material for propaganda with the popular slogan: "For the Eight-Hour Day; a Movement Toward Justice."

The inevitable extension of the limitations on the hours of labor for women must have its effect on shortening hours for men also. Experience shows that this legislation "effects a corresponding reduction in the hours of labor for men in many establishments in which both men and women are employed." [19]

In a more scientific spirit the subject is being studied in several fields. Inquiry is being made regarding laws governing the working time of hospital employes and nurses, and opinions are being gathered on the advantages of such laws. The results are to be presented at the next meeting of the American Hospital Associa-

[18] *Survey*, April 1, 1916, p. 5.

[19] *Report, Massachusetts Statistics of Labor for 1915*, Pt. VI, p. 42.

tion. In Massachusetts there is a recess legislative committee studying conditions of labor in continuous or twenty-four-hour industries. At the request of a body of thirty-three manufacturers of Milwaukee, a careful investigation of the effects of the eight-hour day in the factories of the state of Wisconsin will be made. The United States Public Health Service will study the conditions of Wisconsin women workers to determine proper hours of labor, and the Wisconsin Industrial Commission will act upon the suggestions made in the report. In the Report on *National Vitality* by the Committee of One Hundred on Public Health, one of the "things which need to be done" is stated as follows (page 128): "employers may greatly aid the health movement . . . . by providing . . . . physiological (generally shorter) hours of work. . . . ."

The direction of the movement is unmistakable. It has not only the support of organized labor, of many reformers and public-spirited leaders; but many of the more enlightened employers of labor find it possible to combine their philanthropic inclinations with good business policy in shortening the hours of labor in their establishments. It is beyond question true, as President Wilson has recently said: "The eight-hour day now undoubtedly has the sanction of the judgment of society in its favor." To what extent the changes may be carried by law is a question that especially now is in the balance. Should the United States Supreme Court uphold the decision of the supreme court of Oregon in declaring the constitutionality of the Oregon statute above referred to, the way will be much easier for relating hours of labor to social welfare than it has hitherto been. If not, the way will be more difficult; progress will be slower, but on the whole and in the long run none the less certain.